

ZONING BOARD OF APPEALS
MEETING MINUTES
November 13, 2012
4:00 P.M.

CALL TO ORDER: Mr. John Stetler, Chairperson called meeting to order at 4:05 P.M.

ATTENDANCE:

Members Present: Deland Davis James Moreno
Greg Dunn John Stetler

Members Excused: Carlyle Sims Becky Squires and Rick Barnes

Staff Present: Jill Steele, Deputy City Attorney
Glenn Perian, Senior Planner
Leona Parrish, Admin. Assistant, Planning Dept.

ADDITIONS OR DELETIONS TO THE AGENDA: None

CORRESPONDANCE: None

OLD BUSINESS: None

Mr. John Stetler, Chairperson stated the meeting procedures and that everyone present may speak either for or against an appeal. He stated he will ask for a staff report to be read and then open the public hearing. At the public hearing persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision and if denied they may appeal to the Circuit Court.

NEW BUSINESS:

A) **Appeal the Decision of the Zoning Administrator (439 W. Columbia Ave.)** Appeal from Mr. Richard Christian, R.B. Christian & Sons Inc. requesting to appeal the decision of the zoning administrator in order to allow a two-unit residential use in a "C-3 Intensive Business District" zone for property located at 439 W. Columbia Ave.

Mr. Glenn Perian, Senior Planner stated that on August 15, 2012 a rental permit application was solicited for the subject property by the City Code Compliance Department and the zoning review was done by the Planning and Zoning Department to see if residential uses would be permitted at the subject location; based on the information found in the city files it was determined that the building was constructed in 1930 as a residence and that the old Battle Creek Township zoning maps show that in 1950 the property was zoned "C" Commercial. A 1947 Battle Creek Township zoning Ordinance allows residential uses in the "C" Commercial zone. From 1958-1984 the zoning maps show the property was zoned "B-2 Intensive Business District" as part of the old township. Residential uses were not permitted in the B-2 district. In 1984, when the Township and City merged, the property was zoned "C-3 Intensive Business District" where residential uses are not permitted. Mr. Perian noted that in the

1990's a assessing card showed that the entire building was used as an office and that there are no permits on file; introduced Mr. Dave Farmer, Zoning Officer and Ms. Christine Hilton, Planning and Zoning Supervisor as being present to answer any questions that the zoning board might have.

Mr. Richard Christian, 439 W. Columbia Ave., came forward to speak stating he was asked by the City of Battle Creek to pay \$500 dollars to register his property as a rental; noted for the past 40 years it had been a rental 3-unit and that when he was a child it was a rental and that the does not feel he needed to register as it had always been a rental unit for the past 40 years. Mr. Christian stated he had not done any alterations to this property.

Mr. John Stetler asked Mr. Christian if he would prefer to postpone his request until the next meeting when there would be more than four zoning board members present; Mr. Christian stated "yes" as it would be in his best interest to do so. Chairperson, Mr. Stetler asked if there were any persons wishing to speak seeing none, he called this public hearing to a close and would entertain a motion.

MOTION WAS MADE BY MR. GREG DUNN TO POSTPONE THE REQUEST FROM MR. RICHARD CHRISTIAN, R.B. CHRISTIAN & SON INC., TO APPEAL THE DECISION OF THE ZONING ADMINISTRATOR IN ORDER TO ALLOW A TWO-UNIT RESIDENTIAL USE IN A "C-3 INTENSIVE BUSINESS DISTRICT" ZONE FOR PROPERTY LOCATED AT 439 W. COLUMBIA AVENUE; SUPPORTED BY MR. DELAND DAVIS.

Discussion:

Mr. Greg Dunn asked Mr. Christian to provide any historical property documents that he might have to show it was a rental property, and to also work with the Planning Department. Stated since the rental ordinance passed the zoning board heard from others regarding their property had been used as 2-unit then later divided into four or six additional units, with no records showing it had been allowed by the city and that those decisions made were not in support.

Mr. Deland Davis stated he was in agreement with Mr. Dunn; documentation would be helpful in making a decision and that in 1958 it would need to show the zoning for residential use.

Mr. John Stetler stated they need to look at if the use had never been abandoned.

Mr. Perian stated that the City Assessing office records show that in the 1990's it had been entirely used as commercial use with no records showing it had been approved to be changed back to residential use.

Mr. Christian asked who would have said it was a commercial. Mr. Perian stated the Assessor's Office.

Mr. James Moreno asked when the registering of rental properties began for the city. Mr. Dave Farmer stated it began in the 1980's

Mr. Christian stated it never was registered; as he owned it as a rental before the Battle Creek Township merged with the City of Battle Creek.

MR. JOHN STETLER ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN; THREE (DAVIS, DUNN, & STETLER) IN FAVOR; ONE (MORENO) OPPOSED, MOTION APPROVED TO POSTPONE.

APPROVAL OF MINUTES:

MOTION: WAS MADE BY MR. GREG DUNN TO APPROVE THE SEPTEMBER 11, 2012 ZONING BOARD OF APPEALS MINUTES AS PRESENTED; SUPPORTED BY MR. JAMES MORENO.

ALL IN FAVOR; NONE OPPOSED, MOTION CARRIED – MINUTES APPROVED.

COMMENTS BY THE PUBLIC: None

COMMENTS BY THE MEMBERS / STAFF: None

ADJOURNMENT: Meeting was adjourned at 4:24 P.M.

Submitted by: Leona A. Parrish
Administrative Assistant, Planning Department